

DECLARATION OF CONDOMINIUM

OF

WINDCHASE BAY, A CONDOMINIUM

MITCHELL HOMES, a Partnership (the "Developer"), as the owner in fee simple of the "Land" (as hereinafter defined), hereby makes this Declaration of Condominium of Windhcase Bay, a Condominium (the "Declaration") to be recorded amongst the Public Records of Escambia County, Florida, where the Land is located and states and declares:

I SUBMISSION STATEMENT

Developer is the owner of record of the "Condominium Property" (as hereinafter defined) and does hereby submit the same to condominium ownership pursuant to the Condominium Act, Chapter 718, Florida Statutes, 1976, as amended to the date hereof (the "Act"). This is a "phase condominium" as contemplated by Section 718.403 of the Act. The plan for development of the several "Phases" (as hereinafter defined) of this condominium is set forth in Article IX hereof.

II NAME

The name by which the condominium created hereby (the "Condominium") and the Condominium Property are to be identified is:

WINDCHASE BAY, A CONDOMINIUM

III PHASE CONDOMINIUM - LAND

The land which will become part of the Condominium if and when all of the Phases are submitted to condominium ownership (the "Land") is described in Exhibit A attached hereto and hereby made a part hereof; the legal description of the portion of the Land constituting the first Phase of the Condominium and which is hereby being submitted to condominium ownership, to-wit: Phase 1, is described in Exhibit C attached hereto and hereby made a part hereof (the "Phase 1 Land"); and the legal description of the portion of the Land which may be submitted to condominium ownership as additional Phases of the Condominium (each of which is hereinafter referred to as a "Subsequent Phase" and all of which are collectively referred to as the "Subsequent Phases") are described in Exhibit E attached hereto and hereby made a part hereof.

IV DEFINITIONS

The terms contained in this Declaration shall have the meanings as set forth in the Act, and for clarification the following terms have the following meanings:

A. "Act" means the Condominium Act, Chapter 718, Florida Statutes, 1976, as amended to the date hereof.

B. "Unit" means a unit as described in the Act and is that portion of the Condominium Property which is subject to exclusive ownership. A Unit shall be in an improvement defined as a "Building" in Paragraph A of Article V and Subparagraph A 2 of Article IX of this Declaration and includes each and every Unit in each and every Phase.

C. "Unit Owner" means the owner or owners of a Unit and may include a corporation or other legal entity.

D. "Articles" and "By-Laws" mean, respectively, the Articles of Incorporation and By-Laws of the "Association" (as hereinafter defined).

E. "Assessment" means a share of funds required for the payment of "Common Expenses" (as hereinafter defined) which from time to time is assessed against a Unit Owner.

F. "Association" means WINDCHASE BAY Condominium Association, Inc., a Florida corporation not-for-profit, organized to administer the "Condominium" and having as its members the Unit Owners.

G. "Board" means the Board of Directors of the Association.

H. "Condominium" means the Condominium initially established by this "Declaration" (as hereinafter defined) and which Developer plans to add subsequent Phases pursuant to this Declaration and "Amendments" thereto (as defined in Article IX herein).

I. "Common Elements" means the portion of the Condominium Property, including the Land, not included in the Units.

J. "Common Expenses" means expenses for which the Unit Owners are liable to the Association as set forth in various sections of the Act and in the Condominium Documents and includes:

(a) the expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, cost of fire and extended coverage insurance, cost of managing the Condominium; and

(b) any other expenses designated as Common Expenses in the Condominium Documents or from time to time by the Board.

K. "Condominium Documents" means in the aggregate this Declaration, the Articles, By-Laws and "Rules and Regulations" of the Association and any and all exhibits and amendments thereto and instruments and documents referred to therein and executed in connection with the Condominium.

L. "Condominium Property" means the Phase 1 Land, all improvements thereon, including the Units, the Common Elements, and all easements and rights appurtenant thereto which are intended for use in connection with the Condominium, and is subject to enlargement by the addition of Subsequent Phases pursuant to the Plan of Phase Development described in Article IX herein.

M. "Declaration" means this document.

N. "Developer" means Mitchel Homes, a Partnership, its successors and assigns. A Unit Owner shall not, solely by the purchase of a Unit, be deemed a successor or assign of Developer or of the rights of Developer under the Condominium Documents unless such Unit Owner is specifically so designated as a successor or assign of such rights in the deed conveying title to the Unit or in any other instrument executed by Developer.

O. "Limited Common Elements" means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units.

P. "Phase" means a portion of the Condominium as more particularly described in Article IX herein.

V DESCRIPTION OF IMPROVEMENTS

A. 1. The improvements to be constructed on the Phase 1 Land are described on the "Phase 1 Survey" (as hereinafter defined) and include one two (2) story residential unit building (a "Building") which is identified as "Building A" on the "Phase 1 Survey" (hereinafter defined) which contains eight (8) Units, each of which is designated by a one-digit arabic numeral preceded by the alphabetical letter identifying the Building (e.g. "Unit A-2") and is so referred to herein and in the Exhibits hereto. No Unit bears the same designation as any other Unit in the Condominium.

2. Phase 1 consists of eight (8) Type B Units (two-bedroom, two-bathroom), each containing approximately 1,000 square feet. There is no personal property provided by the Developer in the Building. Square footage excludes the "Balconies" and "Patios" (as shown on the Phase 1 Survey) which are a part of the respective Units.

B. Annexed hereto as Exhibit B and hereby made a part hereof is the "Survey, Plot Plan and Graphic Description of Improvements" for Phase 1 which includes a survey of the Phase 1 Land, a graphic description of the improvements in which the Units and the Common Elements are located and a plot plan thereof (all of which are herein collectively referred to as the "Phase 1 Survey"). The Phase 1 Survey shows and identifies thereon the Common Elements and every Unit in Phase 1 and their relative locations and approximate dimensions. There is attached to the Phase 1 Survey and made a part of this Declaration a certificate of a surveyor prepared, signed and conforming with the requirements of Section 718.104(4)(e) of the Act.

C. There is reflected on the Phase 1 Survey parking space ("Parking Spaces"). Sixteen (16) of the Parking Spaces shall be for the use of Phase 1 and the remainder thereof shall be reserved for the use of Subsequent Phases, if any, all as indicated on the Survey.

D. Notwithstanding the fact that the Parking Spaces are available for the use of specific Phase, such Parking Spaces shall remain Common Elements, and shall be maintained, repaired and replaced by the Association, and

the Unit Owners assessed for such maintenance, repair and replacement in the same manner as the other Common Elements.

E. 1. The Common Elements within or constituting the exterior of a Building, including all breezeways (the "Building Exterior"), shall be "Limited Common Elements" with respect to the Units within such Building and shall be for the use of only the Unit Owners of such Units, their guests, licensees and invitees.

2. Notwithstanding the fact that the Building Exterior is a Limited Common Element for the specific use of the Units in the building, said Building Exterior shall be maintained, repaired and replaced in the same manner as other Common Elements and the Unit Owners assessed for such maintenance, repair and replacement in the same manner as the other Common Elements.

3. There is a separate air conditioning compressor located on the Common Elements for each of the Units. Such air condition compressor shall be a Limited Common Element for the Unit it serves. The owners of such Unit shall maintain, repair and replace at their expense such air condition compressor.

VI UNDIVIDED SHARES IN COMMON ELEMENTS

A. Each Unit shall have as an appurtenance thereto an undivided share of the Common Elements and percentage of ownership in the Association according to the "Schedule of Percentage Interest in Common Elements" attached hereto as Exhibit D and hereby made a part hereof.

B. Each Unit shall have as an appurtenance thereto the right to use all of the Common Elements and Condominium Property of this Condominium in accordance with the Condominium Documents and subject to any limitations set forth in such Condominium Documents.

VII SHARES IN COMMON EXPENSES AND OWNERSHIP OF COMMON SURPLUS

The Common Expenses shall be shared and the "Common Surplus" (as that term is defined in the Act) shall be owned in proportion to each Unit Owner's share of ownership of the Common Elements as set forth on Exhibit D to this Declaration.

VIII VOTING RIGHTS OF UNIT OWNERS

A. The owner or owners, collectively, of the fee simple title of record of each Unit, shall be entitled to one vote per Unit in the Association, regardless of the number of Phases which have been added to the Condominium, as to the matters on which a vote by Unit Owners is taken as provided under the Condominium Documents and the Act.

B. The vote of the owners of any Unit owned by more than one person, a corporation or other legal entity shall be cast by the person ("Voting Member") named in a proxy signed by all of the owners of such Unit or, if appropriate, by properly designated officers, partners or principals of the respective legal entity and filed with the Secretary of the Association. The proxy shall be effective only for the specific meeting for which originally given and any lawfully

adjourned meetings thereof; provided, in no event shall any proxy be valid for a period longer than as may be specified in the Act. If the proxy is not on file, the vote associated with a Unit where the proxy is required shall not be considered in determining whether a quorum has been obtained or for any other purpose.

C. Notwithstanding the provisions of Paragraph D of this Article VIII, whenever any Unit is owned by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a proxy designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:

1. Where both husband and wife are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Unit owned by them. In the event they are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.

2. Where only one (1) spouse is present at a meeting, the spouse present may cast the Unit's vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Unit shall not be considered.

3. Where neither spouse is present, the person designated in a proxy signed by either spouse may cast the Unit vote, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Voting Member by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Voting Member by the other spouse, the vote of said Unit shall not be considered. If the proxy is not on file, the vote associated with a Unit where the proxy is required shall not be considered in determining whether a quorum has been obtained or for any other purpose.

IX PLAN OF PHASE DEVELOPMENT AND ASSOCIATION AREAS

A. The Developer is developing the Land according to a plan of development (the "Plan") as set forth in this Article IX as a "phase condominium" as provided for by Section 718.403 of the Act. The Phase 1 Land and improvements thereon, as described on the Phase 1 Survey, constitute Phase 1 of the Condominium. In addition to Phase 1, the Developer anticipates that certain other portions of the Land and any improvements now or hereafter located thereon (each of which is a "Subsequent Phase") may, by an amendment hereto executed by the Developer alone as provided in Section 718.403(6) of the Act ("Amendment"), be added as part of the Condominium pursuant to this Declaration. If and when a Subsequent Phase is added and made a part of the Condominium, the Condominium Property shall be enlarged and expanded so as to encompass and include the portion of the Land, improvements thereon including the Units, the Common Elements and all easements and rights appurtenant thereto which are intended for use in such Subsequent Phase as set forth on the proposed survey and plot plan for that

particular Subsequent Phase (each of which is referred to as a "Subsequent Phase Survey").

A Subsequent Phase shall be designated by an arabic numeral, to-wit: Subsequent Phases 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, respectively, and an alphabetical letter will identify the "Building" (e.g. "Building B") in such Subsequent Phase which will contain the Units within the respective Phase. Subsequent Phases may be added to the Condominium, if at all, in numerical or non-numerical sequence except that a Subsequent Phase so added shall be contiguous to the Condominium and there shall be a method of vehicular and pedestrian ingress and egress between the Condominium and the Subsequent Phase so added.

3. The proposed Plot Plan, attached as Exhibit E, shows the configuration of each anticipated Phase and its location on the Land and the Building to be located thereon. If and when all of the Subsequent Phases are submitted to condominium ownership, the Condominium will consist of twenty (20) Buildings containing a total of one hundred seventy-six (176) Units.

4. Each Subsequent Phase, when and if submitted to condominium ownership by the recording of an Amendment shall consist of the respective portion of the Land more particularly described on Exhibit F attached hereto and made a part hereof for each particular Phase, and those improvements including, but not limited to, the Building and parking facilities more particularly set forth on the proposed Plot Plan.

B. 1. The number and general size of the Units to be included in each Subsequent Phase, if and when submitted to condominium ownership by the recording of an Amendment, is set forth on Exhibit G attached hereto and made a part hereof.

2. The proposed Plot Plan shows a portion of Subsequent Phase 15 as a portion of Subsequent Phase 15 a recreation area (the "Recreation Area"). In the event Subsequent Phase 15 is added to the Condominium then the Recreation Area will be a Common Element available for the use of all Unit Owners. In the event Subsequent Phase 15 is not added to the Condominium then the Recreation Area will not be a Common Element and it will not be available for the use of the Unit Owners. The Recreation Area will contain, if Subsequent Phase 15 is added to the Condominium, certain recreation facilities including a swimming pool and pool deck and a pool building with equipment room, and two (2) bathrooms. Developer will provide the following personal property in connection with the Recreation Area if same is added to the Condominium: four (4) concrete picnic tables and benches.

3. The proposed Plot Plan shows as a portion of Subsequent Phase 3 as a Holding Pond (the "Holding Pond"). In the event Subsequent Phase 3 is added to the Condominium the Holding Pond will be a Common Element, available for the use of all Apartment Owners. Prior to the time Subsequent Phase 3 is added to the Condominium or, in the event Subsequent Phase 3 is not added to the Condominium, then the Holding Pond shall not be a Common Element of the Condominium but shall, nonetheless, serve the Condominium pursuant to a non-exclusive easement recorded in the Public Records of Escambia County, Florida.

4. Developer will not provide any personal property as part of any Subsequent Phase, except for the personal property to be provided with Phase 15, if and when added to the Condominium which is set forth in Paragraph 2 above.

C. Exhibit D lists the percentage ownership in the Common Elements of each Unit in the Condominium if and when a Subsequent Phase is added by an Amendment.

D. The estimated latest date of completion of each Subsequent Phase, if submitted to condominium ownership by an Amendment, is set forth on Exhibit H attached hereto and made a part hereof. No time-share estates will or may be created with respect to Units in any Phase.

E. Completion of each Subsequent Phase will have the impact of increasing the number of Units in the Condominium and consequently the number of persons using the Common Elements. However, regardless of whether or not any or all of the Subsequent Phases are developed, each Unit in the Condominium shall have one vote in the Association.

F. Developer reserves the absolute right, in its sole discretion, not to complete and/or add any or all of the Subsequent Phases to the Condominium, including but not limited to Subsequent Phases 3 and 15, a portion of which is the Holding Pond and Recreation Area, respectively. In the event that Developer decides not to add one or more Subsequent Phases, Developer shall give notice of such decision to all Unit Owners and shall also record amongst the Public Records of Escambia County, Florida, a statement that Developer has terminated the Plan (the "Termination Statement"), which statement shall set forth the total number of Units in the Condominium. The effect of recording the Termination Statement shall be that the portion of the Land not submitted to condominium ownership pursuant to the Plan as of the recording of the Termination Statement shall not become part of the Condominium. Any notice required by the provisions of this Paragraph F shall be by certified mail addressed to each Unit Owner and "Listed Mortgagee" (as hereinafter defined) at the address of his Unit or at the address of the Listed Mortgagee, as the case may be, or at his last known address as set forth on the books of the Association. IF ANY SUBSEQUENT PHASE IS NOT ADDED AS PART OF THE CONDOMINIUM BY AMENDMENT, NO PORTION OF SUCH SUBSEQUENT PHASE (INCLUDING, BUT NOT LIMITED TO, THE PROPOSED COMMON ELEMENTS CONTAINED WITHIN SUCH SUBSEQUENT PHASE) SHALL BECOME PART OF THE CONDOMINIUM. If Subsequent Phase 15 is not added to the Condominium then the Recreation Area will not be available to the unit owners.

G. 1. Prior to the time a Subsequent Phase is added as part of the Condominium, or in the event any or all Subsequent Phases are not added by Developer as part of the Condominium ("Omitted Phase(s)"), the Developer reserves the right to declare, from time to time, that certain or all owners of dwelling units ("Sharing Owners") in improvements hereinafter located upon the land of the Omitted Phase(s) ("Omitted Land"), and their family members, guests, invitees lessees, have the right, to utilize the Recreation Area, the Holding Pond and streets or roads on the Condominium Property serving as ingress and egress to publicly dedicated roads, and the Holding Pond which is shown on the Plot Plan

(the Recreation Area Holding Pond, and such streets and roads shall be collectively referred to herein as the "Association Area") and shall have the right appurtenant to their apartment or dwelling unit to use the Association Area on a non-exclusive basis with Unit Owners of the Condominium. Such declaration of use rights shall be made by the Developer in writing or writings which shall be recorded amongst the Public Records of Escambia County, Florida, with a copy thereof furnished to the Association within thirty (30) days of the date of such recording. Developer agrees that the aggregate of the number of Units in the Condominium and the number of apartments or dwelling units on the Omitted Land having such appurtenant rights to use the Association Area shall not exceed one hundred seventy-six (176).

2. Any and all Sharing Owners acquiring use rights in and to the Association Area shall be obligated to pay to their respective condominium association or homeowner's association ("Sharing Association(s)"), if any, such Sharing Owner's portion of expenses incurred in the operation and maintenance of the Association Area to be allocated on an equal pro-rata basis among all Sharing Owners and Unit Owners of the Condominium and to be assessed in the same manner as though such Sharing Owners were Unit Owners in the Condominium. The liability of Sharing Owners for Association Area Expenses shall not be avoided or reduced by waiver of the use of enjoyment of the Association Area. The Sharing Association(s), if any, shall assess and collect assessments for their respective portions of the Association Area Expenses and shall promptly remit such assessments to the association upon receipt there. The Sharing Association(s), if any, shall be obligated to the Association for the amounts it is so required to assess (whether or not assessed or collected by any such sharing Association(s)). Developer agrees that the provisions hereinabove set forth with respect to the rights and obligations of the Sharing Owners and the Sharing Association(s) if any shall be included within the documents to be recorded amongst the Public Records of Escambia County, Florida, which would establish the land use covenants and restrictions for the Omitted Land. In the event that there is no Sharing Association with respect to any units or dwelling units located upon Omitted Land, or if there is such a Sharing Association which has not assessed, collected and paid to the Association the sums due with respect to any apartments or dwelling units, the Association shall have the right to assess such apartments or dwelling units and shall have all rights of enforcement, with respect to such assessments (including, but not limited to, lien rights) as if such apartments or dwelling units were Units in the Condominium. No apartment or dwelling unit on any Omitted Land shall be subject to assessment under this paragraph G of Article IX unless and until a Certificate of Occupancy has been issued with respect thereto and such apartment or dwelling unit is occupied for residential purposes, unless the Developer elects to have any such apartment or dwelling unit sooner subject to such assessment.

H. Notwithstanding anything contained in this Declaration to the contrary, no portion of any Subsequent Phase shall be affected or encumbered by this Declaration unless and until the Amendment with respect to such

Subsequent Phase is recorded amongst the Public Records of Escambia County, Florida.

X PURPOSE OF THE ASSOCIATION

The Association shall be the condominium association responsible for the operation of the Condominium. Each Unit Owner shall be a member of the Association as provided in the Condominium Documents. Copies of the Articles and By-Laws of the Association are attached hereto as Exhibits I and J, respectively, and are hereby made a part hereof.

XI EASEMENTS

A. Easements to Public Ways

Developer declares that the Association, Developer, all Unit Owners, Sharing Owner (to the extent set forth in Article IX hereof), and all of their family members, guests, licensees and invitees shall have the right to use and enjoy the driveways, roadways, walks and other rights-of-way comprising a portion of the Common Elements within all Phases of the Condominium, now or hereafter submitted to condominium ownership, for ingress, egress and pedestrian and vehicular traffic to and from all Phases, to and from public ways and dedicated streets; for the furnishing of any and all utility services; and for the purpose of providing access for governmental services. The Association is duly authorized to execute such instruments as may be required to effectuate or further establish the easements described in this Article XI. The easements described herein are intended to comply with Section 718.104(4)(m) of the Act.

B. Easements and Cross-Easements on Common Elements

Developer, for itself, its nominees and the Association, reserves the right to impose upon the Common Elements henceforth and from time to time such additional easements and cross-easements for ingress and egress, and for the installation, maintenance, construction and repair of facilities including, but not limited to, electric power, telephone, sewer, water, gas, drainage, irrigation, lighting, regular and cable television transmission, security, garbage and waste removal and the like as it deems to be in the best interests of, and necessary and proper for, the Condominium and the Sharing Owners.

C. Easement for Encroachments

All of the Condominium Property, including, but not limited to, any portion of the Land which, together with the improvements thereon, is now or hereafter submitted to condominium ownership as a Subsequent Phase, shall be subject to easements for encroachments, which now or hereafter exist, caused by settlement or movement of any improvements upon the Condominium Property or an Omitted Phase or improvements contiguous thereto or caused by minor inaccuracies in building or rebuilding of such improvements. The above easements shall continue until such encroachments no longer exist.

XII PROVISIONS FOR APPORTIONMENT OF TAX OR SPECIAL
ASSESSMENT IF LEVIED AND ASSESSED AGAINST THE
CONDOMINIUM AS A WHOLE

A. In the event that any taxing authority having jurisdiction over this Condominium shall levy or assess any tax or special assessment against this Condominium as a whole as opposed to levying and assessing such tax or special assessment against each Unit and its appurtenant undivided interest in the Common Elements, as now provided by law (herein called the "New Total Tax"), then such New Total Tax shall be paid as a Common Expense by the Association, and any taxes or special assessments which are to be so levied shall be separately levied and collected as a special Assessment by the Association against all of the Unit Owners. Each Unit Owner shall be assessed by and shall pay to the Association a percentage of the New Total Tax equal to that Unit Owner's percentage interest in the Common Elements. In the event that any New Total Tax shall be levied, then the Assessment by the Association shall separately specify and identify the portion of such Assessment attributable to such New Total Tax and such portion shall be and constitute a lien prior to all mortgages and encumbrances upon any Unit and its appurtenant undivided interest in the Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrances, to the same extent as though such portion of the New Total Tax had been separately levied by the taxing authority upon each Unit and its appurtenant undivided interest in Common Elements.

B. All personal property taxes levied or assessed against personal property owned by the Association and all Federal and State income taxes levied and assessed against the Association shall be paid by said Association and shall be included as a Common Expense.

XIII OCCUPANCY AND USE RESTRICTIONS

A. The Units shall be used for single-family residences only. No separate part of a Unit may be rented and no transient (as defined in Chapter 509, Florida Statutes) may be accommodated therein for compensation or commercial purpose.

B. A Unit Owner shall not permit or suffer anything to be done or kept in his Unit which will increase the insurance rates on his Unit or the Common Elements; commit or permit to be committed any nuisance, immoral or illegal act in his Unit, on the Common Elements, interfere with the rights, comfort or convenience of other Unit Owners of the Association or annoy other Unit Owners by unreasonable noises or otherwise.

C. Except for a "For Sale" or "For Rent" sign of a size approved by the Association which is located in a window of the Unit, no Unit Owner (with the exception of Developer, for so long as Developer is a Unit Owner) shall display any sign, advertisement or notice of any type on the exterior of his Unit, at any window or other part of his Unit, or on any personal property located therein or on the Common Elements; no Unit Owner shall erect any exterior antennas or aerials upon his Unit or the Common Elements; and no Unit Owner shall cause anything to project out of any window, door, patio or balcony except as may be approved in writing by the Association.

D. In no event may a Unit Owner keep any pet in his Unit which weighs more than ten (10) pounds at maturity.

E. All windows in the Units, including sliding glass doors, shall have draperies, curtains, shades or other window or door coverings installed which shall have a white backing.

F. Each Unit Owner shall keep his Unit in good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom or from the doors, window, patio or balcony thereof any dirt or other substances.

G. Each Unit Owner who plans to be absent from his Unit during the hurricane season must prepare his Unit prior to his departure by removing all furniture, potted plants and other movable objects, if any, from his porch, patio or balcony and by designating a responsible firm or individual satisfactory to the Association to care for his Unit should the Unit suffer hurricane damage. No hurricane shutters may be installed without first applying in writing on a form supplied by the Association and without the prior written consent of the Association, which consent may be unreasonably withheld. If the installation of hurricane shutters is made which does not conform with the specifications approved by the Association, then the hurricane shutters will be made to conform by the Association at the Unit Owner's expense or they shall be removed.

H. Waterclosets and other water apparatus on the Condominium Property shall not be used for any purposes other than those for which they were constructed. A Unit Owner shall pay for any damage to the Units, their contents and/or the Common Elements because of the misuse of waterclosets or other apparatus in his Unit. Liability for any damage to a Unit caused by the moving or carrying of any article on the Condominium Property shall be borne by the Unit Owner responsible for the presence of such article. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or the Common Elements and shall also include the cost of repairing broken windows. A Unit Owner shall also be liable for any personal injuries caused by his negligent acts or those of any member of his family, or his or their guests, employees, agents or lessees. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

I. No Unit Owner shall use or permit to be brought into the Common Elements or any Unit, or patio any inflammable oils or fluids such as gasoline, kerosene, naphtha, benzine or other explosives or articles deemed extra hazardous to life, limb or property except that substance normally used for barbecues shall be permitted for such use on patios in reasonable quantities and containers.

J. The Association will retain a pass key to each Unit. No Unit Owner shall alter any lock or install a new lock on any door leading into his Unit without prior written consent of the Association. If such consent is given, the Unit Owner shall provide the Association with a key for the use of the Association. In the event the Association is not provided with a key to the Unit, the Unit Owner shall pay the cost incurred by the Association in gaining entrance to his Unit.

K. Only lawn furniture and potted plants are permitted on patios and balconies. The hanging of articles of any type on the patios and balconies is not permitted except that logs may be stored on the patios as long as they are not visible from another Unit or the Common Elements.

L. A Unit Owner may not make or cause to be made any structural modifications to his Unit without the Association's prior written consent, which consent may be unreasonably withheld.

M. Recreation Area: The Recreation Area, if Phase 15 is added to the Condominium, shall be used solely in accordance with the Condominium Documents as follows:

1. Any portions of the Recreation Area shown on the proposed Plot Plan as "Bathhouse" and all land and improvements contiguous thereto shall be kept and maintained in a manner consistent with the improvements located thereon. The Bathhouse shall be utilized for the purpose intended.

2. Pool Areas: The portions of the Recreation Area shown on the proposed Plot Plan as "Pool" and the improvements located thereon shall be kept and maintained as a swimming pool and patio area and shall be used in a manner consistent with such facilities.

3. Private Use: The Recreation Area is not for use and enjoyment of the public, but is expressly reserved for the Private use and enjoyment of Developer the Association, Unit Owners and their family members, guests, invitees and lessees in accordance with the Condominium Documents and the Sharing Owners (if any) and their family members, guests, invitees and lessees. Developer hereby expressly reserves the right to use the Recreation Area for operational, administrative and miscellaneous meetings and conferences of Developer and related entities (the foregoing types of meetings being by way of example and not by way of limitation) and also for use in connection with the sale and marketing by Developer of residential dwelling units, if any, including, but not limited to, the holding of sales and marketing meetings, sales promotions and related activities.

O. The Association, through its Board, may, from time to time, promulgate such other rules and regulations with respect to the Condominium as it determines to be in the best interests of the Condominium and the Unit Owners including, but not limited to, rules and regulations restricting children from using the recreational facilities located upon the Recreation Area unless accompanied by an adult and precluding children from playing in certain areas of the Recreation Area and Land provided same are consistent with the use covenants set forth in the Condominium Documents. The Board may modify, alter, amend or rescind

such rules and regulations provided such modifications, alterations and amendments are consistent with the use covenants set forth in the Condominium Documents.

XIV PARKING SPACES

A. Assignment of Use of Parking Spaces

Two (2) Parking Spaces will be available for use for each Unit. However, the use of a specific Parking Space will not be assigned to a specific Unit.

B. Restrictions on Use of Parking Spaces

No trucks, boats, trailers or campers may be parked at any time on the Condominium Property except as provided under the Rules and Regulations of the Association or as the Association may otherwise provide. The Association shall have the right to authorize the towing away of any vehicles which violate this Declaration or the Rules and Regulations of the Association, with costs to be borne by the owner or violator.

XV SALES, LEASES, MORTGAGES AND CONVEYANCES

A. Sale

A Unit Owner may convey, transfer or otherwise dispose of his Unit without the approval of the Association.

B. Mortgages

Every Mortgagee shall have all of the rights granted to it under the act and the Declaration including, without limitation, the rights under the provision of Articles XVII and XXVIII hereof.

C. Lease

A Unit may be leased provided that the Unit is used only as a residence; that the lease or rental period is for not less than thirty consecutive days; that the Unit is occupied by only one family having no more members than the Unit is designed to accommodate; and provided that such use by the tenant or tenants does not create a nuisance. A Unit Owner may lease or rent his own Unit himself to any lessee provided that he furnishes the Association with the names of all the tenants. All lessees are subject to the provisions of this Declaration and the other Condominium Documents and failure to comply with said provisions shall be a default under any lease of any Unit whether so stated in said lease. All of the foregoing may be enforced by the Association.

XVI PROVISIONS RELATING TO MAINTENANCE, REPAIRS AND ALTERATIONS

A. By Unit Owners

1. Each Unit Owner shall maintain in good condition, repair and replace at his expense all portions of his Unit, all interior surfaces within or surrounding his Unit such as the surfaces of the walls, ceilings and floors (it being specifically understood that the exterior portion of the Unit is a Common Element), the fixtures therein including the air conditioning equipment. Each Unit Owner

shall maintain the Limited Common Elements air conditioner compressors serving his Unit. Each Unit Owner shall pay for any utilities which are separately metered to his Unit. Each Unit Owner must perform promptly all maintenance and repair work within his Unit, as aforesaid, which if not performed would affect the Condominium Property or a Unit belonging to another Unit Owner. Each Unit Owner shall be expressly liable for any damages which arise due to his failure to perform the above-described maintenance, repair or replacement. Each Unit shall be maintained and repaired in accordance with the final building plans and specifications utilized by the Developer, copies of which shall be on file in the office of the Association, except for changes or alterations approved by the Board as provided in this Declaration.

2. Each Unit Owner shall repair, maintain and replace as necessary all piping, wiring, ducts, conduits, appliances and other facilities for the furnishing of utility service which are located within the Unit and service only said Unit, provided, however, that all such repairs, maintenance and replacements shall be done by licensed plumbers or electricians and such repairs shall be paid for by and be the financial obligation of such Unit Owner.

3. No Unit Owner shall make any alteration in or on any portion of the Buildings or the Common Elements which are maintained by the Association, or remove any portion thereof or make any additions thereto or do anything which shall or may jeopardize or impair the safety or soundness of the Buildings or the Common Elements or which, in the sole opinion of the Board, would detrimentally affect the architectural design of the Buildings without obtaining the prior written consent of the Board.

4. No Unit Owner shall paint, refurbish, alter, decorate, repair, replace or change the Common Elements or any outside or exterior portion of the Unit or Building maintained by the Association, including patios, balconies, doors, windows, etc., or install any exterior lighting fixtures, mail boxes, screening or screen doors, awnings, hardware, or similar items which are not consistent with the general architecture of the Building without first obtaining specific written approval of the Board, which approval the Board may withhold in its sole and absolute discretion. The Board shall not give such approval if in its opinion the effect of any of the items mentioned herein will be unsightly as to the exterior or interior of the Buildings and unless such items substantially conform to the architectural design of the Building and the design of any such items which have previously been installed at the time the Board approval is requested.

5. Each Unit Owner shall promptly report, in writing, to the Association or its agents any defect or need for repair on the Condominium Property for which the Association has the responsibility of maintenance and repair.

6. Each Unit Owner shall permit any officer of the Association or any agent of the Board to have access to his Unit from time to time during reasonable hours as may be necessary for making emergency repairs therein which are

necessary to prevent damage to the Common Elements, or to another Unit or Units.

B. By the Association

The Association shall maintain, repair and replace as necessary all of the Common Elements, the Building Exterior Limited Common Elements and all exterior surfaces of the Condominium Property, including windows and screens, and other exterior surfaces of the Units, all landscaping upon the Common Elements, all fences on the Common Elements and all piping, wiring, ducts, conduits, appliances and other facilities for furnishing of any and all utility services to the Units, as necessary but excluding therefrom all piping, wiring, ducts, conduits, appliances and other facilities located within a Unit servicing only said Unit. The expense of replacing all windows and screens in the exterior of the Unit shall be assessed by the Association against the Unit that such window or screen are a part of except if the Association is reimbursement therefor by insurance premiums.

C. Alterations and Improvements

The Association shall have the right to make or cause to be made structural changes and improvements of the Common Elements which are approved by the Board and which do not prejudice the right of any Unit Owner or any Institutional Mortgagee; provided, however, if the cost of the same shall exceed One Thousand (\$1,000.00) Dollars, the affirmative vote of two-thirds (2/3) of the Unit Owners shall be required in addition to such Board approval, and the cost of such alterations and improvements shall be assessed against the Unit Owners in the manner provided in the By-Laws.

XVII PROVISIONS FOR COMMON EXPENSES,
ASSOCIATION AREA EXPENSES AND ASSESSMENTS

A. Common Expenses

The Association, by its Board, shall prepare and adopt an annual budget for the operation and management of the Association and the Condominium (the "Budget") in accordance with the Condominium Documents. The Common Expenses shall be estimated in the budget and shall be allocated to each Unit Owner based upon each Unit Owner's share of Common Expenses which allocated sum shall be assessed as the "Annual Assessment". Notwithstanding the above stated method of allocation, the Unit Owners shall be obligated to pay in addition to the Annual Assessment, such special Assessments ("Special Assessment") as shall be levied by the Board against their Unit or Units either as a result of (a) extraordinary items of expense; (b) the failure or refusal of other Unit Owners in the Condominium to pay their Annual Assessment; or (c) such other reason or basis determined by the Board which is not inconsistent with the terms of the Condominium Documents or the Act. Notwithstanding anything contained herein the expenses of

Limited Common Element air conditioning compressor shall be paid as set forth in Article V E. 3. hereof.

B. Assessments

Assessments shall be made and determined as provided herein and in the other Condominium Documents. Annual Assessments shall be payable in advance in monthly installments or in such other installments as the Board may determine and notice to Unit Owners in writing (the "Assessment Payment Method").

1. The record owners of each Unit shall be personally liable, jointly and severally, to the Association for the payment of Annual Assessments and any Special Assessments levied by the Association and for all costs of collecting delinquent Assessments, plus interest and reasonable attorney's fees as hereinafter provided. In the event of default in the payment of an installment under the Assessment Payment Method used by the Board or a default in payment of a Special Assessment, the Board may accelerate remaining installments of the Annual Assessment upon notice thereof to the Unit Owner in default, whereupon, the entire unpaid balance of the Annual Assessment shall become due upon the date stated in the notice (which date shall not be less than ten (10) days after the date of the notice). In the event any Special Assessment, installment under the Assessment Payment Method or accelerated Annual Assessment is not paid within twenty (20) days after their respective due dates, the Association, through the Board, may proceed to enforce and collect the said Assessments against the Unit Owner owing the same in any manner provided for by the Act, including foreclosure and sale of the Unit.

2. The Association may at any time require Unit Owners to maintain a minimum balance on deposit with the Association to cover future Assessments.

3. In connection with the Assessments, the Association shall have all of the powers, rights, privileges and legal remedies provided for by the Act, specifically including a lien upon each Unit for any unpaid Assessment and interest thereon owned by the Unit Owner of such Unit, together with reasonable attorneys' fees incurred by the Association prior to any litigation and at all trial and appellate levels which are incident to the collection of such Assessments or the enforcement of such lien. Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the highest per annum rate permitted by law.

4. It is specifically acknowledged that the provisions of Section 718.116(6) of the Act are applicable to this Condominium, and further, in the event a holder of a first mortgage on a Unit ("Mortgagee") acquires title to a Unit through foreclosure or a deed or assignment in lieu of foreclosure, such Mortgagee, its successors and assigns, shall not be liable for the share of Common Expenses or assessment which became due prior to such acquisition of title unless such share of Assessment is secured by a claim of lien for Assessments that is recorded prior to the recording of the mortgage which has been foreclosed or for which a deed (or assignment) is given in lieu of foreclosure. Assessments that are not secured by a claim of lien recorded prior to the recording of the mortgage which

has been foreclosed for which a deed (or assignment) is given in lieu of foreclosure shall be cancelled as to such Unit, effective with the passage of title to such mortgage.

5. No lien for Assessments under the Act or under the Condominium Documents shall be effective until recorded amongst the Public Records of Escambia County, Florida.

XVIII LIABILITY INSURANCE PROVISIONS

A. The Board shall obtain liability insurance in such amounts as it may determine from time to time for the purpose of providing liability insurance coverage for all property and improvements in the Condominium excluding the Units; provided, however, that such policy or policies shall not have limits of less than One Million Dollars (\$1,000,000) covering all claims for personal injury and One Hundred Thousand Dollars (\$100,000) for property damage arising out of a single occurrence. The Board shall collect and enforce the payment of a share of the premium for such insurance from each Unit Owner as a part of the Annual Assessment. Said insurance shall include, but not be limited to, legal liability for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of any property or improvements within the Condominium, legal liability arising out of law suits related to employment contracts of the Association, water damage, liability for hazards related to usage and liability for property of others, hired automobile, non-owned automobile and off-premises employee coverage. All such policies shall name the Association and Developer as the insured under such policy or policies. The original or a true copy of each policy shall be held in the office of the Association. The insurance purchased shall contain a "severability of interest endorsement", or equivalent coverage, which would preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of either the Association, Developer or any other Unit Owners or deny the claim of either Developer of the Association because of the negligent acts of the other or the negligent acts of a Unit Owner. All liability insurance shall contain cross liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner. Each Unit Owner shall be responsible for the purchasing of liability insurance for accidents occurring in his own Unit and, if the Unit Owner so determines, for supplementing any insurance purchased by the Association.

B. Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Directors and all others who handle and are responsible for handling funds of the Association, shall be maintained. Such coverage shall be in the form of Fidelity Bonds which meet the following requirements unless one or more of such requirements are waived in writing by all "Listed Mortgagees" (as such term is hereinafter defined), (i) such bonds shall name the Association as an obligee; (ii) such bonds shall be written in an amount equal to at least three (3) months aggregate Assessments for all Units plus reserve funds; and (iii) such bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

C. All insurance policies or fidelity bonds purchased pursuant to this Article XVIII shall provide that they may not be cancelled without at least ten (10) days prior written notice to the Association and to Listed Mortgagees.

XIX PROVISIONS RELATING TO CASUALTY INSURANCE
AND DESTRUCTION OF IMPROVEMENTS

A. Each Unit Owner shall be responsible for the purchase of casualty insurance for all of his personal property. The Association shall obtain casualty insurance with such coverage and in such amounts as it may determine from time to time for the purpose of providing casualty insurance coverage for the Condominium Property including Fire and Extended Coverage, Vandalism, Malicious Mischief and, if available, flood insurance sponsored by the Federal Government, all of which shall insure all of the insurable improvements on or within the Condominium Property, including personal property owned by the Association, in and for the interest of the Association, all Unit Owners and their Mortgagees, as their interests may appear, with a company acceptable to the standards set by the Board. The Association shall purchase insurance for each Building now located or which may hereafter be located, built or placed within the Condominium in an amount equal to one hundred percent (100%) of the "Replacement Value" thereof. The term "Replacement Value" shall mean one hundred percent (100%) of the current replacement costs exclusive of land, foundation, excavation, items of personal property and other items normally excluded from coverage as determined annually by the Board. The Board may determine the kind of coverage and proper and adequate amount of insurance. The casualty insurance shall contain an "agreed amount endorsement" or its equivalent, "inflation guard endorsement", and if determined necessary an "increased cost of construction endorsement" or "continuant liability from operation of building laws endorsement" or a "demolition endorsement" or the equivalent. The casualty insurance shall insure the Buildings from loss or damage caused by or resulting from at least the following: fire and other hazards covered by the standard extended coverage endorsement and by sprinkler leakage, windstorm, vandalism, malicious mischief, flood and/or water damage, debris removal and demolition, and such other risks as shall customarily be covered with respect to projects or developments similar to the Buildings in construction location and use.

The Association may, to the extent possible and not inconsistent with the foregoing, obtain one (1) policy to insure all of the insurable improvements within the Condominium. The premiums for such coverage and other expenses in connection with said insurance shall be paid by the Association and charged as part of the Common Expenses. The company (or companies) with whom the Association shall place its insurance coverage, as provided in this Declaration, must be good and responsible and authorized to do business in the State of Florida. The Association shall have the right to designate a trustee (the "Insurance Trustee") and thereafter, from time to time, shall have the right to change the Insurance Trustee to a trust company authorized to conduct business in the State of Florida with the principal office in Escambia County or to such other person, firm or corporation consistent with the provisions of the Declaration or as the Association determines provided such Insurance Trustee shall be acceptable to the Listed

Mortgagee holding first mortgages encumbering fifty one (51%) percent of the units encumbered by first mortgages held by the Listed Mortgagee.

B. All such policies shall provide that they may not be cancelled without at least ten (10) days prior written notice to the Association and the Listed Mortgagee and shall be deposited with the Insurance Trustee upon its written acknowledgment that the policies and any proceeds thereof will be held in accordance with the terms hereof. Said policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Insurance Trustee. In the event of a casualty loss, the Insurance Trustee may deduct from the insurance proceeds collected a reasonable fee for its service as Insurance Trustee. The Board is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies, nor for the failure to collect any insurance proceeds.

C. No mortgagee shall have any right to participate in the determination of whether property is to be rebuilt nor shall any mortgagee have the right to apply insurance proceeds to repayment of its loan unless such proceeds are distributed to Unit Owners and/or their respective mortgagees.

D. The duty of the Insurance Trustee shall be to receive any and all proceeds from the insurance policies held by it and to hold such proceeds in trust for the Association, Unit Owners and Approved Mortgagees under the following terms:

1. In the event a loss insured under the policies held by the Insurance Trustee occurs to any improvements within any of the Units alone, without any loss to any improvements within the Common Elements, the Insurance Trustee shall immediately pay all proceeds received because of such loss directly to the Unit Owners of the Units damaged and their respective Approved Mortgagees, if any, as their interests may appear and it shall be the duty of these Unit Owners to use such proceeds to effect necessary repairs to their own Units. The Insurance Trustee may rely upon the written statement of the Association as to whether or not there has been a loss to the Units alone or the Common Elements, or some of them.

2. In the event that a loss of Five Thousand (\$5,000.00) Dollars or less, as determined by detailed estimates or bids for repair and reconstruction obtained by the Board, occurs to improvements within one or more Units and to improvements within Common Elements contiguous thereto, to improvements within the Common Elements, or to improvements within the Common Elements alone, the Insurance Trustee shall pay the proceeds received as a result of such loss to the Association. Upon receipt of such proceeds, the Association will promptly cause the necessary repairs to be made to the improvements within the Common Elements within the damaged Units, as the case may be. In such event, should the insurance proceeds be sufficient to repair the improvements within the Common Elements, but insufficient to repair all of the damage within the Units, the proceeds

shall be applied first to completely repair the improvements within the Common Elements and the balance of the funds ("Balance") shall be apportioned by the Association to repair the damage to the improvements within the Units, which apportionment shall be made to each Unit in accordance with the proportion of damage sustained to improvements within said Units as estimated by the insurance company whose policy covers such damages. Any deficiency between the balance apportioned to a damaged Unit and the cost of repair of such damaged Unit shall be paid by a Special Assessment payment to the Association by the Unit Owner of such damaged Unit.

3. In the event the Insurance Trustee receives proceeds in excess of Five Thousand (\$5,000.00) Dollars as a result of damages to the improvements within the Common Elements or Units and Common Elements that are contiguous, then the Insurance Trustee shall hold in trust all insurance proceeds received with respect to such damage together with any and all other funds paid, as hereinafter provided in part (c) of this subparagraph 3, and shall distribute such funds as follows:

(a) The Board shall obtain or cause to be obtained reliable and detailed estimates and/or bids for the cost of rebuilding and reconstructing the damage for the purpose of determining whether insurance proceeds are sufficient to pay for the same.

(b) In the event the insurance proceeds are sufficient to rebuild and reconstruct all the damaged improvements, or upon the collection of the necessary funds that are described in part (c) of this subparagraph 3, then the damaged improvements shall be completely repaired and restored. In this event, all payees shall deliver paid bills and waivers of Mechanics' Liens to the Insurance Trustee and execute affidavits required by law, the Association, any Mortgagee named on a mortgage endorsement or by the Insurance Trustee, and shall deliver the same to the Insurance Trustee. Further, the Association shall negotiate and obtain a contractor willing to do the work on a fixed price basis or other reasonable terms under the circumstances and said contractor shall post a performance and payment bond. The Insurance Trustee shall disburse the insurance proceeds and other funds held in trust in accordance with the progress payments contained in the construction contract between the Association and the contractor. Subject to the foregoing, the Board shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.

(c) In the event the insurance proceeds are insufficient to repair and replace all of the damaged improvements within the Common Elements and Units contiguous to such damaged Common Elements, the Board shall hold a special meeting to determine a Special Assessment against all of the Unit Owners to obtain any necessary funds to repair and to restore such damaged improvements. Such Assessment need not be uniform as to all Units and shall take into account that damage may have occurred in but one of the Buildings. Such Assessment may be in accordance with such factors as the Board shall consider to be fair and equitable under the circumstances. Upon the determination by the Board of the amount of such Special Assessment, the Board shall immediately levy such Assessment against the

respective Units setting forth the date or dates of payment of the same, and any and all funds received from the Unit Owners pursuant to such Assessment shall be delivered to the Insurance Trustee and disbursed as provided in subparagraph 3(b) immediately preceding. In the event the deficiency between the estimated cost of the repair and replacement of the damaged Condominium Property and the insurance proceeds exceeds the sum of Fifty Thousand (\$50,000.00) Dollars and three-fourths (3/4) of the Unit Owners advise the Board in writing on or before the date for the first payment thereof that they are opposed to a Special Assessment, then the Insurance Trustee shall divide the net insurance proceeds into the shares described in Article VI of this Declaration and shall promptly pay each share of such proceeds to the Unit Owners and Mortgagees of record as their interests may appear (an "Insurance Proceeds Distribution"). In making such distribution to the Unit Owners and the Mortgagees, the Insurance Trustee may rely upon a certificate of an abstract company as to the names of the then Unit Owners and their respective Mortgagees. Any Insurance Proceeds Distribution shall also require the approval of Listed Mortgagees holding first mortgages encumbering fifty-one (51%) percent of the Units encumbered by first mortgages held by Listed Mortgagees.

4. In the event that after the completion of and payment for the repair and reconstruction of the damage to the Condominium Property, and after the payment of the Insurance Trustee's fee with respect thereto, any excess insurance proceeds remain in the hands of the Insurance Trustee, then such excess shall be disbursed in the manner of the Insurance Proceeds Distribution. However, in the event such repairs and replacements were paid for by any Special Assessment as well as insurance proceeds, then it shall be presumed that the monies disbursed in payment of any repair, replacement, and reconstruction were first disbursed from insurance proceeds and any remaining funds held by the Insurance Trustee shall be distributed to the Unit Owners in proportion with their contributions by way of Special Assessment.

5. In the event the Insurance Trustee has on hand, within ninety (90) days after any casualty or loss, insurance proceeds and, if necessary, funds from any Special Assessment sufficient to pay fully any required restoration and repair with respect to such casualty or loss, then no mortgagee shall have the right to require the application of any insurance proceeds or Special Assessment to the payment of its loan. Any provision contained herein for the benefit of any Approved Mortgagee may be enforced by any Mortgagee.

6. Any repair, rebuilding, or reconstruction of damaged Condominium Property shall be substantially in accordance with the architectural plans and specifications for (i) the originally constructed Condominium Property, (ii) reconstructed Condominium Property, or (iii) new plans and specifications approved by the Board; provided, however, any material or substantial change in new plans and specifications approved by the Board from the plans and specifications of the previously constructed Condominium Property, as the case may be, shall require approval by Listed Mortgagees holding first mortgages encumbering fifty-one (51%) percent of the Units encumbered by first mortgages held by Listed Mortgagees and further provided that new plans and specifications shall not change the air space or boundaries of the Units.

7. The Board shall determine, in its sole and absolute discretion, whether damage or loss occurs to improvements within Units alone or Common Elements alone, or to any combination thereof.

XX PROVISIONS RELATING TO PROHIBITION
OF FURTHER SUBDIVISION

The provisions of Section 718.107 of the Act are specifically incorporated into this Declaration. Additionally, there shall be no further division of Units and hence, any instrument, whether a deed, mortgage, or otherwise, which describes only a portion of any Unit shall be deemed to describe such entire Unit and the interest in the Common Elements appurtenant thereto.

XXI PROVISIONS RELATING TO SEVERABILITY

If any provision of this Declaration, the other Condominium Documents or the Act is held invalid, the validity of the remainder of this Declaration, the Condominium Documents or of the Act shall not be affected.

XXII PROVISIONS RELATING TO INTERPRETATION

A. Article, Paragraph and Subparagraph titles in this Declaration are intended only for convenience and for ease of reference and in no way do such titles define, limit or in any way affect this Declaration or the meaning or the contents of any material contained herein.

B. Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular, and the singular shall include the plural.

C. As used herein, the term "member" means and refers to any person, natural or corporate, who becomes a member of the Association, whether or not that person actually participates in the Association as a member.

D. In the event any Court should hereafter determine any provision as originally drafted herein in violation of the rule of law known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, "measuring lives" shall be those of the incorporators of the Association.

XXIII PROVISIONS CONTAINING REMEDIES FOR VIOLATION

Each Unit Owner shall be governed by and shall comply with the Act and all of the Condominium Documents as such Condominium Documents may be amended and supplemented from time to time. Failure to do so shall entitle the Association, any Unit Owner or any Mortgagee holding a mortgage encumbering any Unit to either sue for injunctive relief, for damages, or for both, and such parties shall have all other rights and remedies which may be available at law or in equity. Further, the Association shall have the right to assess a reasonable fine against a Unit Owner for a violation of the Condominium Documents which is not cured within a reasonable time after written notice to the Unit

Owner, provided that the Unit Owner is first given reasonable written notice of such fine and opportunity to appeal same before the Board of Directors. The failure to enforce promptly any of the provisions of the Condominium Documents shall not bar the subsequent enforcement of such provisions. In any legal proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Condominium Documents, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees at all trial and appellate levels as may be awarded by the Court.

XXIV PROVISIONS FOR ALTERATIONS OF UNITS BY DEVELOPER

A. Developer reserves the right to alter the interior design and arrangement of all Units and to alter the boundaries between the Units and to combine two (2) or more Units into one (1) Unit or to sever any Unit comprised of two (2) or more Units into its component parts as long as Developer owns the Units so altered (which alterations in Developer's Units are hereinafter referred to as the "Alterations").

B. Any Alteration which alters the boundaries of the Common Elements (other than the interior of walls abutting Units owned by Developer) shall require an amendment of this Declaration in the manner herein provided in Paragraph B of Article XXV.

C. In the event the Alterations do not require an Amendment in accordance with the provisions of Paragraph B above, then an Amendment of this Declaration shall be filed by Developer in accordance with the provisions of this Paragraph C. Such Amendment (the "Developer's Amendment") need be signed and acknowledged only by the Developer and shall not require approval of the Association, other Unit Owners or lienors or mortgagees of the Units, whether or not such approvals are elsewhere required for an Amendment of this Declaration. This Amendment shall adjust the share of the Common Elements, Common Expenses and Common Surplus and the voting rights attributable to the Units being affected by the Alterations and may be made as a Developer's Amendment as long as the Developer owns the Units for which the shares are being so adjusted.

XXV PROVISIONS FOR AMENDMENTS TO DECLARATION

A. Except as to the Amendment under Article IX hereof, Developer's Amendment under Article XXIX hereof, Special Amendment under Article XXXI hereof, and the matters described in Paragraphs B, C, D, E and F of this Article XXV, this Declaration may be amended at any regular or special meeting of the Unit Owners called and held in accordance with the By-Laws by the affirmative vote of the owners of not less than two-thirds (2/3) of the Units, provided that any amendment shall be approved or ratified by a majority of the Board as a whole. An amendment to the Declaration shall be evidenced by a certificate executed by the Association and recorded in accordance with the Act. A true copy of such amendment shall be sent by certified mail by the Association to the Developer and to all Listed Mortgagees (the "Mailing"). The amendment shall become effective upon the recording of the certificate amongst the Public Records of Escambia County, Florida, but the certificate shall not be recorded until thirty (30) days

after the Mailing, unless such thirty (30) day period is waived in writing by Developer and all Listed Mortgagees.

B. Except as to an Amendment to Add a Phase described in Article IX hereof Developer's Amendment and Amendments under Article XXIX hereof, no amendment of the Declaration shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to such Unit, change the proportion of percentage by which each Unit Owner shares the Common Expenses and owns the Common Surplus and Common Elements, or change the Unit's voting rights in the Association, unless all of the record owners of such Unit and all record owners of liens on the Unit join in the execution of the amendment. The provisions of Section 718.110(5) of the Act are specifically incorporated herein. Any such amendment shall be voted on at a special meeting of the affected Unit Owner or Unit Owners and shall be evidenced by a certificate joined in and executed by such Unit Owner or Unit Owners and all Mortgagees holding mortgages thereon and recorded in the same manner as provided in Paragraph A of this Article XXV.

C. Whenever it shall appear to the Board that there is a defect, error or omission in the Declaration or other documentation required by law to establish this Condominium, the Association, through its Board, may call for a special meeting of the Unit Owners to consider amending the Declaration or other documents in accordance with Section 718.304 of the Act. Upon the affirmative vote of the owners of one-third (1/3) of the Units, the Association shall amend the appropriate documents. A true copy of such amendment shall be sent pursuant to the Mailing. Such Amendment shall be evidenced by a certificate executed by the Association in recordable form in accordance with the Act, and a true copy of such amendment shall be mailed by the Association to the Developer and to all Listed Mortgagees. The amendment shall become effective upon the recording of the certificate amongst the Public Records of Escambia County, Florida, but the certificate shall not be recorded until thirty (30) days after the Mailing, unless such thirty (30) day period is waived in writing by Developer and all Listed Mortgagees.

D. Prior to the Majority Election Meeting, the Developer may amend this Declaration in order to correct a scrivener's error or other defect or omission without the consent of the Unit Owners or the Board, provided that such amendment does not materially and adversely affect a Unit Owner's property rights. This amendment shall be signed by the Developer alone and a copy of the amendment shall be furnished to each Unit Owner, the Association and all Listed Mortgagees as soon after recording thereof amongst the Public Records of Escambia County, Florida, as is practicable.

E. The Articles and By-Laws shall be amended as provided in such documents.

F. No amendment of this Declaration or any Article or provision hereof shall be adopted which shall impair or prejudice the rights or priorities of the Developer, the Association or any Mortgagee under this Declaration and the other Condominium Documents without the specific written approval of the Developer, the Association, or any Mortgagee affected thereby. However, approval of the Developer shall be required for only so long as the Developer is offering Units within the Condominium for sale in the ordinary course of business.

XXVI PROVISIONS SETTING FORTH THE RIGHT OF DEVELOPER
TO TRANSACT BUSINESS AND TO SELL OR LEASE UNITS
OWNED BY IT FREE OF RESTRICTIONS

A. So long as Developer shall own any Unit, whether by reacquisition or otherwise, Developer shall have the absolute right to lease, sell, convey, transfer, mortgage or encumber in any way any such Unit upon any terms and conditions as it shall deem to be in its own best interests including, without limitation, the right to lease Units for such term as Developer, in its sole discretion, may determine.

B. Developer reserves and Developer and its nominees shall have the right to enter into and transact on the Condominium Property any business necessary to consummate the sale, lease or encumbrance of Units or dwelling units being offered for sale by Developer of affiliated companies of Developer in other developments, including the right to maintain models and a sales office, place signs, employ sales personnel, use the Common Elements and the Association Area, and show Units and Developer reserves and Developer and its nominees shall have the right to make repairs to the Condominium Property and to carry on construction activity, including the right to carry on construction activities of all types necessary to construct any Subsequent Phases or Omitted Phases and to carry on activities related to the development, sale, lease or encumbrances of the Units. Developer and its nominees may exercise the foregoing rights without notifying the Association. Any such models, sales office, signs and any other items pertaining to such sales efforts shall not be considered a part of the Common Elements and shall remain the property of the Developer. This Article XXVI may not be suspended, superseded or modified in any manner by any amendment to the Declaration unless such amendment is consented to in writing by Developer. The right of use and transaction of business as set forth herein and the provisions of Paragraph A of this Article may be assigned in writing by the Developer in whole or in part.

XXVII PROVISIONS RELATING TO
ASSOCIATION ACQUIRING INTERESTS AND
ENTERING INTO AGREEMENTS AND COVENANTS

The Association shall have all of the powers of a condominium association under the Act and, pursuant thereto, the Association is authorized to enter into agreements to acquire possessory or use interests in real property and to provide therein that the expenses of said real property and any improvements thereon, including taxes, insurance, utility expenses, maintenance and repairs, are Common Expenses, whichever may be applicable.

XXVIII RIGHTS OF LISTED MORTGAGEES

A. The Association shall be required to make available for inspection upon request, during normal business hours or under reasonable circumstances the Condominium Documents and the books, records and financial statements of the Association, to the Unit Owners and the holders, insurers or guarantors of any first mortgages encumbering Units. In addition evidence of insurance shall be issued to each Unit Owner and mortgagee holding a

mortgage encumbering a Unit upon written request to the Association.

B. Upon written request to the Association any holder of a first mortgage encumbering a Unit shall be entitled to financial statements for the immediately preceding fiscal year to be given within a reasonable time period.

C. Upon the written request to the Association, identifying the name and address of the holder, insurer, guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Unit and the legal description of such Unit, the Association shall provide such Listed Mortgagee with timely written notice of the following:

1. Any condemnation, loss or casualty loss which affects any material portion of the Condominium or any Unit encumbered by a first mortgage held, insured or guaranteed by such Listed Mortgagee;

2. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

3. Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Unit; and

4. Any failure by a Unit Owner owning a Unit encumbered by a mortgage held, insured or guaranteed by a Listed Mortgagee to perform his obligations under the Condominium Documents, including, but not limited to, any delinquency in the payment Annual Assessments or Special Assessments, or any other charge owed to the Association by said Unit Owner where such failure or delinquency has continued for a period of sixty (60) days.

D. Developer and any Listed Mortgagee shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay any of the assessments which are in default and which may or have become a charge against any Unit. Further, Developer and any Listed Mortgagees shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay insurance premiums or fidelity bond premiums or any "New Tax" as defined in the Declaration, on behalf of the Association where, in regard to insurance premiums, the premiums are overdue and where lapses in policies may or have occurred or, in regard to New Taxes, where such tax is in default and which may or has become a charge against the Condominium Property. Developer and any Listed Mortgagees paying insurance premiums or any New Tax on behalf of the Association as set forth above shall be entitled to immediate reimbursement from the Association plus any costs of collection, including, but not limited to, reasonable attorney's fees at all trial and appellate levels.

XXIX PROVISIONS RELATING TO CONDEMNATION OR EMINENT DOMAIN PROCEEDINGS

A. Deposit of Awards With Insurance Trustee

1. The taking of any portion of the Condominium Property of the Condominium by condemnation shall be deemed to be a casualty, and the awards for that taking shall be

deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Although the awards may be payable to Units, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board, a Special Assessment shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Unit Owner.

2. The Association shall represent the Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements, or part thereof by the condemning authority.

B. Disbursement of Funds

If the Condominium is terminated in accordance with the provisions of this Declaration after condemnation, the proceeds of the awards and Special Assessments, if any, shall be deemed to be Condominium Property and shall be divided into the shares described in the Condominium Declaration and distributed to the Unit Owners and mortgagees as their interests may appear. If the Condominium is not terminated after condemnation, but the size of the Condominium will be reduced, the owners of the condemned Units will be made whole and the Condominium Property damaged by the taking will be made useable in the manner provided below.

C. Unit Reduced But Tenantable

If the taking reduces the size of a Unit ("Affected Unit") and the remaining portion of the Affected Unit can be made tenantable, the award for the taking of a portion of the Affected Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

1. The Affected Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Unit Owner thereof.

2. The balance of the award, if any, shall be distributed to the owner of the Affected Unit and to each mortgagee of the Affected Unit, the remittance being made payable to the Unit Owner and mortgagees as their interests may appear.

3. If the floor area of the Affected Unit is reduced by more than ten (10%) percent by the taking, the number representing the share in the ownership of the Common Elements of the Condominium appurtenant to the Affected Unit shall be reduced ("Reduction in Percentage of Common Elements") in the proportion by which the floor area of the Affected Unit is reduced by the taking, and then the shares of all Units of the Condominium in the ownership of the Common Elements shall be restated with the Reduction in Percentage of Common Elements being allocated to all the Units in proportion to their share of ownership in the Common Elements.

D. Affected Unit Made Untenantable

If the taking is of the entire Affected Unit or so reduces the size of an Affected Unit that it cannot be made tenantable, the award for the taking of the Affected Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

1. The market value of the Affected Unit immediately prior to the taking shall be paid to the Unit Owner thereof and to each mortgagee thereof as their interests may appear.

2. The remaining portion of the Affected Unit, if any, shall become a part of the Common Elements of the Condominium and shall be placed in a condition approved by the Board; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking after the payment set forth in subparagraph D.1 above, the work shall be approved in the manner required for further improvement of the Common Elements.

3. The shares in the Common Elements of the Condominium appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements from the Affected Unit among the reduced number of Units in the Condominium. The shares of the continuing Units in the ownership of the Common Elements shall be restated with the percentage of ownership in the Common Elements of the Affected Units being allocated to all the continuing Units of the Condominium in proportion to their relative share of ownership in the Common Elements.

4. If the amount of the award for taking is not sufficient to pay the market value of the Affected Unit to the Unit Owner thereof and to condition the remaining portion of the Affected Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by Special Assessments against all of the Unit Owners who will continue as Unit Owners of the Condominium after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Unit Owners in the Common Elements after the changes effected by the taking.

5. If the market value of an Affected Unit prior to the taking cannot be determined by agreement between the Unit Owner, the mortgagees of the Affected Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Affected Unit; and the determination of the arbitrators shall be conclusive upon the parties and judgment upon the same may be entered in any court having jurisdiction thereof. The cost of arbitration proceedings shall be assessed against all Units in the Condominium in proportion to the shares of the Units in the Common Elements as they exist prior to the changes effected by the taking.

E. Taking of Common Elements

Awards for taking of Common Elements shall be used to make the remaining portion of the Common Elements useable in the manner approved by the Board; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required for further improvement of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation and to mortgagees as their interests may appear.

F. Amendment of Declaration

The changes in Units, in the Common Elements and in the ownership of the Common Elements that are effected by the condemnation shall be evidenced by an amendment of the Declaration that need be approved only by a majority of the Board unless written approvals from Developer and/or Listed Mortgagees are also required pursuant to Article XXVIII of this Declaration. Such amendment shall be evidenced by a certificate executed by the Association in recordable form in accordance with the Act, and a true copy of such amendment shall be mailed via certified mail or registered mail by the Association to all Unit Owners and Listed Mortgagees being changed by such amendment ("Interested Parties"). The amendment shall become effective upon the recording of such certificate amongst the Public Records of Escambia County, Florida; provided, however, such amendment shall not be recorded until thirty (30) days after the mailing of a copy thereof to the Interested Parties unless such thirty (30) day period is waived in writing by the Interested Parties.

XXX PROVISIONS RELATING TO TERMINATION

A. In order to preserve the plan of development of Windchase Bay as a whole, the preservation of which is acknowledged as being for the benefit of the Condominium Property, and in the best interest of the Association, the Unit Owners and their grantees, successors and assigns, it is hereby covenanted and agreed that no amendment of the Plan or termination of this Declaration shall be made for a period of twenty-five (25) years from the date of this Declaration, or if made within such period, shall not be effective if in the judgment of Developer, the Association or any Listed Mortgagee such amendment alters or in any way affects such Plan, without the prior written consent to such amendment or termination by Developer, the Association and the Listed Mortgagees. However, approval of the Developer shall be required for only so long as the Developer is offering Units for sale in the ordinary course of business.

B. In the event the Condominium is terminated in accordance with and pursuant to the provisions of this Declaration, or if such provisions shall not apply for any reason pursuant to law, the Developer declares, and all Unit Owners by taking title to a Unit covenant and agree that the documents providing such termination shall require (i) that any improvements upon what now comprises the Condominium Property shall be for residential use only and shall contain residential dwelling units of a number not in excess of the number of Units in the Condominium; and (ii) that any improvements upon what now comprises the Recreation Area shall be for recreational use only; and (iii) that the

Unit Owners of the Condominium (as tenants in common of the Condominium Property as set forth in Paragraph D of this Article XXX) shall remain obligated to pay their entire Annual Assessment, a portion of which will continue to be allocated to the Condominium Property in the manner provided in the Condominium Documents as fully as though the Condominium were never terminated, and the obligation to make such payments shall be enforceable by all of the remedies provided for in this Declaration, including a lien on the Land, including the portion now designated as Units under the Condominium Documents.

C. Subject to the foregoing restrictions, this Declaration may be terminated by the affirmative written consent of the owners of eighty (80%) percent of the Units and the written consent of all Listed Mortgagees encumbering Units in the Condominium; provided, however, that the Board consents to such termination by a vote of three-fourths (3/4) of the entire Board taken at a special meeting called for that purpose.

D. In the event of the termination of the Condominium, the Condominium Property shall be deemed removed from the provisions of the Act and shall be owned in common by the Unit Owners, pro rata in accordance with the percentage each Unit Owner shares in the Common Elements, as provided in this Declaration; provided, however, each Unit Owner shall continue to be responsible and liable for his Annual Assessment in accordance with the provisions of the Condominium Documents, and any and all lien rights provided for in this Declaration or elsewhere shall continue to run with the real property designated herein as Condominium Property and shall encumber the respective undivided shares of the Unit Owners in the Condominium Property as tenants in common.

XXXI SPECIAL AMENDMENT

A. Developer, without the consent of any Unit Owners, the Board or any Mortgagee, until such time as the Unit Owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors, hereby reserves and is granted the right and power to record in the public records of Escambia County, Florida, Special Amendments to this Declaration at any time and from time to time which amend this Declaration: (1) to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasipublic or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities or; (2) to induce any of such agencies or entities to make, purchase, sell, insure or guaranty first mortgages on any of the Units within the Condominium. Provided, however, that no such Special Amendment shall discriminate against any Unit nor against any Unit or class or group of Units, unless the Unit Owners and their Mortgagees so affected shall consent; and no amendment shall change any Unit nor the share in the Common Elements appurtenant to it, nor increase the Owner's share of the Common Expenses, unless the Owner of the Unit concerned and all record owners of the Mortgages on such Units shall joint in the execution of the amendment.

B. Notwithstanding anything contained herein, the Condominium may not be merged or amended with another Condominium without the prior written approval of the Veterans Administration.

IN WITNESS WHEREOF, Mitchell Homes, a Partnership, has caused these presents to be signed in its name by its Partner this 16th day of May, 1983.

WITNESSES:

MITCHELL HOMES, a Partnership

By: THE MITCHELL COMPANY, a Partnership

By: ARMY DEVELOPMENT CORPORATION, a Delaware Corporation

By: Joseph J. Campus, III
Senior Vice President

James M. Weber
Regina Fitzgerald

(SEAL)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 16th day of May, 1983 by Joseph J. Campus, III, Senior Vice President of Army Development Corporation, a Delaware Corporation, on behalf of the corporation in its capacity as general partner of The Mitchell Company, a partnership, executing and acknowledging said instrument as a partner on behalf of Mitchell Homes, a partnership.

James M. Weber
Notary Public

My Commission Expires: July 1, 1983

This instrument was prepared by:

James M. Weber
of: Beggs & Lane
700 Brent Building
Pensacola, Florida